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Attorney for Plaintiff

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA (Philadelphia)**

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SANDRA SIMMONS	§	
55 Oaklyn Lane	§	
Coatesville, PA 19320-1842,	§	CIVIL ACTION
Plaintiff,	§	
	§	
v.	§	NO.: _____
	§	
BRANDYWINE HOSPITAL	§	
201 Reeceville Road	§	
Coatesville, PA 19320-0953,	§	
and	§	
CHRISTIE BOYES	§	JURY TRIAL DEMANDED
c/o BRANDYWINE HOSPITAL	§	
Defendants.	§	

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**NOTICE TO PLEAD**

You have been sued in court. If you wish to defend against the claims set forth in the following pages. You must take **action within twenty (20) days** after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF  
YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, THEN  
GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND  
OUT WHERE YOU CAN GET LEGAL HELP.**

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LAWYER REFERRAL AND INFORMATION SERVICE  
ONE READING CENTER  
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If you are looking for an attorney in a county listed below, then contact that county bar association's lawyer referral service (LRS) directly.

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(717) 854-8755

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office and conducted business at the location of Defendant Brandywine Hospital and, at all times material hereto, transacted business in Chester County, Pennsylvania and was in a supervisory position over the Plaintiff on behalf of Defendant Brandywine Hospital.

### **III. JURISDICTION AND VENUE**

4. The above mentioned paragraphs are incorporated as if set forth more fully herein.

5. Jurisdiction is conferred upon this Honorable Court by 28 U.S.C. § 1337 relating to "any civil action or proceeding arising out of any act of Congress regulating commerce," 28 U.S.C. § 1343(4), and 28 U.S.C. § 1331. This action is authorized and instituted pursuant to the Family Medical Leave Act, 29 U.S.C. §§ 2601 et seq.

6. Plaintiff obtains jurisdiction because the demand is in excess of One Hundred Fifty Thousand Dollars (\$150,000.00) or as a federal question matter, or both.

7. Venue is appropriately laid in the United States District Court for the Eastern District of Pennsylvania, pursuant to 28 U.S.C. § 1391(b), because all parties regularly conduct business within this district and the acts complained of by Plaintiff arose therein.

### **IV. FACTS**

8. On February 17, 2011, Plaintiff slipped and fell when leaving work.

9. On November 7, 2011, Plaintiff fractured the right foot during physical therapy for the slip and fall injury.

10. From February 18, 2011, through December 5, 2011, Plaintiff was absent from work under the Pennsylvania Workers' Compensation Act or worked with limitations.

11. On December 2, 2011, Defendant Boyes faxed the Certification of Health Care Provider (HR form 51) to Plaintiff's surgeon.

12. On December 6, 2011, the Certification of Health Care Provider was signed by the surgeon and faxed back to Defendant Boyes stating, in part, as follows:

a. As of November 29, 2011, the medical condition commenced;

- b. through January 10, 2012, Plaintiff would be incapacitated; and
- c. thereafter the job functions were limited in standing, walking, lifting.

13. On December 22, 2011, Plaintiff was terminated.

**FAMILY AND MEDICAL LEAVE ACT, AS AMENDED 2008, 29 U.S.C. §§ 2601 *et seq.***

**COUNT I Interference**

**COUNT II Retaliation**

**PLAINTIFF V. DEFENDANTS BRANDYWINE HOSPITAL AND BOYES**

- 14. The above-mentioned paragraphs are incorporated as if set forth more fully herein.
- 15. Pursuant to 29 U.S.C. § 2611(2)(A) and 29 U.S.C. § 2612(a)(1)(D), Plaintiff was eligible for Family and Medical Leave.
- 16. At all times material hereto, Plaintiff believes that Defendant Brandywine Hospital had at least 50 employees.
- 17. Plaintiff was employed for at least 12 months and worked at least 1,250 hours.
- 18. Plaintiff has statutory rights to be free from interference and retaliation under the Family and Medical Leave Act, 29 U.S.C.A. §§ 2601 *et seq.*, which Defendants violated, including, but not limited to, as set forth above in the “FACTS” section.
- 19. As a direct and proximate result of Defendants unlawful interference and retaliation, Plaintiff has been deprived of economic and non-economic benefits including, but not limited to, wage loss, loss of fringe benefits, painful embarrassment among family, friends and co-workers, and disruption of personal life.
- 20. Defendants’ acts were willful, wanton, malicious, and oppressive with reckless disregard for federally protected rights; therefore, justifying the imposition of punitive damages.
- 21. Plaintiff demands favorable judgment against Defendants for all equitable relief including, but not limited to: reinstatement to job position, full restoration of all leave and health benefits and any additional unpaid leave up to the maximum permitted by the FMLA including,

but not limited to, doubling the damages proven inclusive of all wages, salary, employment benefits or other compensation denied or lost.

22. Plaintiff further demands favorable judgment for all interest on the monetary benefits calculated at the prevailing rate, an additional amount equal to those sums, as liquated damages under 29 U.S.C.A. § 2617(a)(3), fees and costs including the allowance of reasonable attorney fees, expert witness fees and other costs of the action and such other orders and further relief as may be necessary and appropriate.

23. In addition, Defendants had an employee handbook and failed to provide Plaintiff the benefits provided therein.

**WHEREFORE**, Plaintiff demands judgment against Defendants for all available equitable relief, plus all past and present wages, salary, employment benefits or other compensation denied or lost by reason of the violations. Further, Plaintiff seeks punitive damages plus counsel fees, costs and other relief as deemed appropriate by the Court.

Date: November 2, 2013.

Respectfully submitted,  
By: /s/Patrick Flanigan  
Patrick Flanigan